

AMENDED IN SENATE APRIL 7, 2005

SENATE BILL

No. 739

Introduced by Senator Speier

February 22, 2005

~~An act to add Section 1279.1 to, and to add and repeal Section 1279.2 of, An act to add Section 1279.1 to, and to add Part 1.5 (commencing with Section 435) to Division 1 of, the Health and Safety Code, relating to health facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Speier. Hospitals: infection control.

Existing law provides for the licensure and regulation by the State Department of Health Services of health facilities, including general acute care hospitals. A violation of these provisions by a health facility is a crime. Existing law requires health facilities to file reports containing health facility data with the Office of Statewide Health Planning and Development.

This bill would require *a general acute care hospital* ~~hospitals~~ *hospital* to have a written infection control program for the surveillance, prevention, and control of infections, ~~under the oversight of a multidisciplinary committee~~. The bill would require the department to evaluate the program and would authorize the department to require the hospital to submit a plan of correction.

~~The bill would require a general acute care hospital to collect and maintain data regarding the number of hospital-acquired infections and to use that data to improve the quality of care. The bill would require the department to collect data regarding surgical site infections and would authorize the department to increase the annual licensure fee to fund the direct costs associated with the department's annual risk adjustment of that data. Commencing January 1, 2008, the bill would require the department to publish an annual report on~~

~~hospital-acquired infections that includes a list of best practices that the department has identified. The bill would require each hospital maintain a record of its activities and programs to reduce hospital-acquired infections. The bill would authorize the department to issue a deficiency to a hospital that has an infection rate that exceeds the 90th percentile of all hospital reported data. If a hospital fails to take corrective action within a reasonable time and any deficient infection rate does not improve, the bill would authorize the department to assess administrative fines. The provisions in this paragraph would become operative on July 1, 2006, inoperative on January 1, 2013, and would be repealed on January 1, 2013.~~

This bill would require a general acute care hospital to collect and maintain data on selected hospital-acquired infections. It would require the establishment of a multidisciplinary advisory panel to monitor the statewide planning and oversight of hospital collection and risk-adjustment of hospital-acquired infection data. This bill would require the State Department of Health Services, by January 1, 2007, to establish data collection and reporting methods and timelines, as well as other related operating procedures, based upon the recommendations of the advisory panel. The bill would declare legislative intent that certain data be made available to the public regarding hospital-acquired infections, and would limit the scope of the data to be collected prior to January 1, 2008. The bill would require the data collection to be subject to the oversight of the multidisciplinary advisory panel.

Because the bill would add to the requirements of a health facility, and a violation of those requirements would be a crime, the bill would impose a state-mandated local program. *In addition, by increasing the duties of local health officials with respect to service on the advisory panel, the bill would impose a state-mandated local program.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Part 1.5 (commencing with Section 435) is
2 added to Division 1 of the Health and Safety Code, to read:

3
4 PART 1.5. HOSPITAL-ACQUIRED INFECTION DATA

5
6 435. (a) As used in this chapter, "hospital-acquired
7 infection" means an infection meeting the current statistical
8 epidemiologic definition of a nosocomial infection, as
9 standardized by the National Healthcare Safety Network of the
10 federal Centers for Disease Control and Prevention (CDC), and
11 acquired by a patient during hospital care, which was not
12 detected as present or incubating at admission.

13 (b) (1) It is the intent of the Legislature that data be made
14 public regarding hospital-acquired infections in order to improve
15 the quality of care in hospitals. It is further the intent of the
16 Legislature that the data collected prior to January 1, 2008, be
17 limited to the following:

18 (A) Surgical site infections following surgical procedures
19 involving a high risk for mortality or serious morbidity, or
20 procedures involving a high volume of patients, such as coronary
21 artery bypass graft surgery, total hip replacement,
22 laminectomies, or laparoscopic appendectomies. The
23 department, in consultation with the advisory panel established
24 pursuant to Section 435.5, shall determine two of these surgical
25 procedures for which hospital-acquired risk-adjusted infection
26 data shall be reported.

27 (B) Central-line associated blood stream infections in
28 intensive care units.

1 (2) Commencing January 1, 2008, the State Department of
2 Health Services, in consultation with the advisory panel
3 established pursuant to Section 435.5, shall consider the addition
4 of ventilator-associated pneumonia as well as any other types of
5 infections or hospital units as the office may determine pursuant
6 to this section.

7 (c) Collection of data required by this section shall be subject
8 to oversight by the advisory panel established pursuant to
9 Section 435.5.

10 (d) The department shall adopt regulations to implement this
11 section.

12 435.5. (a) A general acute care hospital shall collect and
13 maintain data on selected hospital-acquired infections. The
14 hospital shall analyze and use that data to improve quality of
15 care. The data shall be subject to inspection by the department.

16 (b) The data shall be risk-adjusted using methods and
17 definitions standardized by the National Healthcare Safety
18 Network of the federal Centers for Disease Control and
19 Prevention (CDC).

20 (c) Each hospital shall document comparison of its rates with
21 the rates published by the State Department of Health Services at
22 the next regularly scheduled meeting of its infection control
23 committee, within 180 days of the publication and release of the
24 report by the department.

25 (d) Each hospital shall implement all applicable Category IA
26 recommendations from current CDC Guidelines no later than
27 one year following their publication. The hospital shall maintain
28 for inspection by the department a record of evidence-based
29 steps adopted to reduce hospital-acquired infections and annual
30 summary data on the infection rates.

31 (e) (1) A multidisciplinary advisory panel shall be established
32 to monitor the statewide planning and oversight of hospital
33 collection and risk-adjustment of hospital-acquired infection
34 data.

35 (2) The panel shall include persons with expertise in the
36 surveillance, prevention, and control of health care-associated
37 infections, including the department and local health department
38 officials, health care infection control professionals, health care
39 providers, and consumers.

1 (f) *The following process measures shall be initially reported*
2 *by hospitals to the department:*

3 (1) *Surgical antimicrobial prophylaxis for selected surgical*
4 *procedures.*

5 (2) *Influenza vaccination coverage rates for health care*
6 *personnel in all hospitals.*

7 (g) *On or before January 1, 2007, the department shall*
8 *establish all of the following, based upon the recommendations*
9 *of the advisory panel:*

10 (1) *The method for collecting data by a hospital.*

11 (2) *The method for reporting data to the department.*

12 (3) *The timeline for collecting and reporting data.*

13 (4) *The method for validating data reported by a hospital to*
14 *the department.*

15 (5) *The method for risk adjustment of infection rates.*

16 (6) *The nature and timing of reports by the department to*
17 *hospitals and to the public.*

18 (7) *The resources and infrastructure needed for a reporting*
19 *system, including a proposal to increase the minimum ratio of*
20 *infection control professionals required by Title 22 of the*
21 *California Code of Regulations to 1/100 beds.*

22 **SECTION 1.**

23 SEC. 2. Section 1279.1 is added to the Health and Safety
24 Code, to read:

25 1279.1. (a) ~~(1)~~—A general acute care hospital shall adopt and
26 implement a written infection control program for the
27 surveillance, prevention, and control of infections.

28 ~~(2) The oversight of the infection surveillance, prevention, and~~
29 ~~control program shall be vested in a multidisciplinary committee.~~
30 ~~The committee shall include representatives from the medical~~
31 ~~staff, nursing department, administration, and infection control.~~

32 (b) In conducting inspections pursuant to Section 1279, the
33 department shall evaluate the hospital's infection control
34 program. If, during the inspection, the department determines
35 that the health or safety of patients is at risk due to a deficient
36 infection control program, the department may require that the
37 hospital submit a plan of correction. A hospital may voluntarily
38 provide the department with information regarding its efforts to
39 minimize hospital-acquired infections, and the department shall

1 consider that information in determining whether to take further
2 action.

3 *(c) The infection control program shall be updated annually,*
4 *or more often, as needed.*

5 *(d) The annual licensure fee imposed on a general acute care*
6 *hospital by Section 1266 may be increased to fund the direct*
7 *costs associated with the department's oversight of the hospital's*
8 *data collection and reporting procedures.*

9 *(e) A hospital subject to this section shall maintain for*
10 *inspection by the department a record of its activities and*
11 *programs to reduce hospital-acquired infections, as defined in*
12 *subdivision (a) of Section 435.*

13 ~~SEC. 2. Section 1279.2 is added to the Health and Safety~~
14 ~~Code, to read:~~

15 ~~1279.2. (a) As used in this section, "hospital-acquired~~
16 ~~infection" means an infection acquired by a patient while an~~
17 ~~inpatient at a general acute care hospital and that was not present~~
18 ~~or incubating at the time of admission.~~

19 ~~(b) A general acute care hospital shall collect and maintain~~
20 ~~data regarding the number of hospital-acquired infections and~~
21 ~~the number of patients with a hospital-acquired infection by unit~~
22 ~~and by type of infection. The hospital shall analyze and use that~~
23 ~~data to improve the quality of care. The data shall be subject to~~
24 ~~inspection by the department.~~

25 ~~(c) During its inspections of hospitals, the department shall~~
26 ~~collect data regarding surgical site infections following coronary~~
27 ~~artery bypass graft surgery, total hip replacement, laminectomies,~~
28 ~~and central line associated blood stream infections in intensive~~
29 ~~care units. The department shall risk-adjust this data. The annual~~
30 ~~licensure fee imposed on general acute care hospitals by Section~~
31 ~~1266 may be increased to fund the direct costs associated with~~
32 ~~the department's annual risk-adjustment of this data.~~

33 ~~(d) Commencing January 1, 2008, the department shall publish~~
34 ~~an annual report on hospital-acquired infections by category~~
35 ~~pursuant to the data collected as required in this section. The~~
36 ~~report shall include a list of best practices that the department has~~
37 ~~identified. No hospital shall be identified in the department~~
38 ~~report.~~

39 ~~(e) Each hospital shall compare its procedures against the best~~
40 ~~practices published by the department within 180 days of the~~

1 publication and release of the report by the department. The
2 hospital shall maintain a record of its review of the best practices
3 and steps adopted to reduce hospital-acquired infections within
4 the facility.

5 (f) Each hospital shall maintain for inspection by the
6 department a record of its activities and programs to reduce
7 hospital-acquired infections and annual summary data on the
8 infections and infection rates specified in subdivision (c).

9 (g) The department may issue a deficiency to a hospital that
10 has an infection rate in a procedure category described in
11 subdivision (c) that exceeds the 90th percentile of all hospital
12 reported data. If a hospital fails to take corrective action within a
13 reasonable time and any deficient infection rate does not
14 improve, the department may assess an administrative fine of up
15 to one thousand dollars (\$1,000) per annum for the first failure to
16 improve, a fine of up to five thousand dollars (\$5,000) per annum
17 for the second failure to improve, and a fine of up to ten thousand
18 dollars (\$10,000) per annum for a subsequent failure to improve.
19 If the hospital takes corrective action within a reasonable time,
20 which is acceptable to the department, no fine shall be assessed.
21 The department shall adopt procedures for assessment of the
22 administrative fine.

23 (h) The department shall advise hospitals about best practices
24 and provide other information that can help hospitals decrease
25 the number of hospital-acquired infections.

26 (i) (1) Notwithstanding any other provision of law, all data,
27 information, reports, records, analyses, proceedings, and plans
28 acquired or generated by the department or by a hospital or
29 medical staff pursuant to this section, or by an individual or other
30 entity acting at the direction of the department, hospital, or
31 medical staff, shall be considered confidential information. This
32 confidential information shall not be disclosed to anyone, except
33 to the extent necessary to carry out one or more duties specified
34 in this section. This confidential information shall not be subject
35 to discovery, subpoena, or other type of legal compulsion for its
36 release to any person or entity, and shall not be admissible as
37 evidence in any civil, criminal, or judicial proceeding,
38 arbitration, or before any administrative body, agency, or person.
39 No person shall disclose or testify about what transpired at any
40 meeting held by the department, hospital, or medical staff or at

1 the direction of the department, hospital, or medical staff to carry
2 out one or more duties pursuant to this section.

3 (2) A facility may provide to the department and to licensing
4 or accrediting organizations the confidential information required
5 by this section or by the licensing or accrediting organizations
6 without compromising the protections provided to the facility, its
7 employees, and other health care practitioners by this section or
8 by Sections 1156 to 1157.7, inclusive, of the Evidence Code.

9 (3) Notwithstanding any other provision of law, the governing
10 body of a facility that is owned or operated by a governmental
11 entity may close a meeting to discuss hospital-acquired infection
12 reporting, analysis, deliberations, decisions, recommendations,
13 corrective action, or documentation. The meeting may be closed
14 only by a majority vote of the governing body in a public
15 meeting.

16 (4) This section does not affect the admissibility in evidence of
17 a patient's medical record.

18 (j) This section shall become operative on July 1, 2006.

19 (k) This section shall remain in effect only until January 1,
20 2013, and as of that date is repealed, unless a later enacted
21 statute, that is enacted before January 1, 2013, deletes or extends
22 that date.

23 SEC. 3. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution
25 because the only costs that may be incurred by a local agency or
26 school district will be incurred because this act creates a new
27 crime or infraction, eliminates a crime or infraction, or changes
28 the penalty for a crime or infraction, within the meaning of
29 Section 17556 of the Government Code, or changes the
30 definition of a crime within the meaning of Section 6 of Article
31 XIII B of the California Constitution.

32 SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution for
34 certain costs that may be incurred by a local agency or school
35 district because, in that regard, this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the
37 penalty for a crime or infraction, within the meaning of Section
38 17556 of the Government Code, or changes the definition of a
39 crime within the meaning of Section 6 of Article XIII B of the
40 California Constitution.

1 *However, if the Commission on State Mandates determines that*
2 *this act contains other costs mandated by the state,*
3 *reimbursement to local agencies and school districts for those*
4 *costs shall be made pursuant to Part 7 (commencing with Section*
5 *17500) of Division 4 of Title 2 of the Government Code.*

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